IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Mat. Appeal.No. 268 of 2007()

OP.413/2005 of FAMILY COURT, MALAPPURAM
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PETITIONER: APPELLANT(RESPONDENT)

SULAIMAN, AGED 37 YEARS,
S/O.MOOKKUNNATH ARAKKAL BAPPUTTY,
PANAMPADY, KOKKOOR P.O., PONMUDI TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS: PETITIONERS

HAFSA, D/O KOTTILINGAL UMMER,
AGED 27 YEARS, KARIKKAD P.O.,
KUNNAMKULAM VIA, TRICHUR DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ

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MAT. APPEAL NO. 268 OF 2007

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Dated this the 19th day of July, 2007.

JUDGMENT

Kurian Joseph,J

The appeal is filed against the judgment dated 22.08.2006 in O.P. No. 413/2005 on the file of the Family Court, Malappuram. The husband is the respondent in the case. The petition was filed for getting past maintenance, future maintenance and also for recovery of money. There is no dispute that the appellant was set exparte before the Family Court. According to the appellant, only owing to the circumstances beyond his control, he had left the country after filing the written statement. Be that as it may, it is brought to our notice that this Court has disposed of R.P(F.C) 271/2007 by remitting the matter to the Family Court, in which case the Family Court awarded maintenance at the rate of Rs. 200 and Rs.1000/- respectively to two children. On setting aside the order and remitting the matter for fresh consideration this Court directed payment of interim maintenance at the rate of Rs.750/- per month. In the case of wife also we propose to follow the same pattern as far the maintenance is concerned. As far as the recovery of money is concerned, we are of the view that the

appellant is to be given an opportunity to defend the case on merits. Accordingly, we set aside the judgment dated 22.08.2006 in O.P. No. 413/2005 of Family Court subject to the following conditions:

1. The appellant shall deposit an amount of Rs.60,000/- before the Family Court within a period of one month from today. The appellant shall also pay interim maintenance to the respondents at the rate of Rs. 1,750/- per month with effect from January, 2007.

2. The interim maintenance as above shall be paid before 25th of every month.

In case any of the conditions as above are not satisfied, this appeal will stand dismissed.

KURIAN JOSEPH, JUDGE.

T.R. RAMACHANDRAN NAIR, JUDGE.

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